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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

IN THE MATTER OF: Application Serial No. 76/532,253
PUBLISHED IN THE OFFICIAL GAZETTE OF May 4, 2004
INTERNATIONAL CLASS: 43

MOOSEHEAD BREWERIES LIMITED

Opposer,

v.

PATRICIA E. SACCIO and
CHARLES E. SACCIO, Individuals,
d.b.a. HUNGRY MOOSE

Applicants.

Opposition No. 91161936

Serial No. 76/532,253

ANSWER

Applicants respond to Opposer's notice of opposition as follows.

1. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 and leave Opposer to its proofs.

2. Applicants deny the allegations of Paragraph 2.

3. Applicants deny that opposer is the owner of the MOOSE family of marks as "the MOOSE family of marks" is undefined. Applicants admit that the registrations listed in Paragraph 3 have been issued by the U.S. Patent and Trademark Office. Applicants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 3 and therefore deny them.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelop addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria VA 22313-1451, on this 12th day of October, 2004.

Signed: Robert R. Mallinckrodt Dated: Oct. 12, 2004
Robert R. Mallinckrodt



10-14-2004

4. Applicants are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 and therefore deny them.

5. Applicants admit that Opposer has been engaged in business prior to November 1, 2002. Applicants admit that they filed their trademark application based on actual use of the mark in interstate commerce starting at least as early as November 1, 2002 and allege that their application was officially filed June 30, 2003.

6. Applicants deny the allegations of Paragraph 6.

7. Applicants deny the allegations of Paragraph 7.

8. Applicants deny the allegations of Paragraph 8.

9. Applicants deny the allegations of Paragraph 9.

10. Applicants deny the allegations of Paragraph 10.

11. Applicants deny the allegations of Paragraph 11.

12. Applicants deny the allegations of Paragraph 12.

13. Applicants deny the allegations of Paragraph 13.

14. Applicants deny the allegations of Paragraph 14.

AFFIRMATIVE DEFENSES

15. There are numerous registrations for marks which include the word MOOSE that are not owned by Opposer, and numerous users, other than Opposer, of marks which include the word MOOSE. Opposer does not own rights to all MOOSE marks.

16. Applicants' mark is different from the marks of Opposer in that Applicants' mark is HUNGRY MOOSE which gives a different commercial impression than the mark MOOSEHEAD or other MOOSE marks alleged to be owned by Opposer.

17. There is no likelihood of confusion between Applicants' and Opposer's marks.

18. Applicants' mark does not dilute Opposer's marks.

WHEREFORE, Applicants pray that Opposers opposition be denied.

Dated this 12th day of October, 2004.

Respectfully submitted,



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Patricia E. Saccio and Charles E. Saccio
d.b.a. Hungry Moose

CERTIFICATE OF SERVICE

Applicants hereby certify that they served a true and correct copy of the foregoing Answer on Opposer this 12th day of October, 2004, by mailing the copy postage prepaid in an envelope addressed to:

Amanda H. Wilcox
Hahn Loeser + Parks LLP
1225 West Market Street
Akron, OH 44313-7188



Robert R. Mallinckrodt